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9  
10 **BEFORE THE**  
11 **BOARD OF REGISTERED NURSING**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. **2009-279**

14 DONNA LEIGH CROSBY

1037 Garland Avenue

15 San Jose, California 95126

Registered Nurse License No. 571898

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation and  
21 Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board  
22 of Registered Nursing, Department of Consumer Affairs.

23 2. On or about September 14, 2000, the Board of Registered Nursing issued  
24 Registered Nurse License Number 571898 to Donna Leigh Crosby (Respondent). The License  
25 was in effect at all times relevant to the charges brought herein and will expire on November 30,  
26 2009, unless renewed.

27 3. In a disciplinary action entitled "In the Matter of the Statement of Issues  
28 Against Donna Leigh Crosby," Case No. 2000-189, the Board of Registered Nursing issued a

decision, effective September 10, 2000, in which Respondent was granted a Registered Nurse License. However, the license was immediately revoked, the revocation was stayed and the license was placed on probation for a period of three (3) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

4. In a disciplinary action entitled "In the Matter of the Accusation and Petition to Revoke Against Donna Leigh Crosby," Case No. 2000-189, the Board of Registered Nursing issued a decision, effective January 11, 2004, in which Respondent's Registered Nurse License was revoked. A copy of that decision is attached as Exhibit B and is incorporated by reference.

5. On or about April 12, 2007, Respondent represented herself before the Board requesting reinstatement of her Nursing License. "In the Matter of the Petition for Reinstatement of Donna Leigh Crosby," OAH Case No. N2007030742, the Board of Registered Nursing issued a decision, effective June 25, 2007, reinstating Respondent's Nursing license. The license was immediately revoked, the revocation stayed, and the license was placed on probation for five (5) years. A copy of that decision is attached as Exhibit C and is incorporated by reference.

## JURISDICTION

6. This Accusation and Petition to Revoke Probation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

## STATUTORY PROVISIONS

7. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

8. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or

1 deny an application for a certificate or license for any of the following:

2 (a) Unprofessional conduct which includes but is not limited to the following:

3 ...

4 (d) Violating or attempting to violate, directly or indirectly, or assisting in or  
5 abetting the violation of, or conspiring to violate any provision or term of this chapter or  
6 regulations adopted pursuant to it.

7 ...

8 (f) Conviction of a felony or of any offense substantially related to the  
9 qualifications, functions, and duties of a registered nurse, in which event the record of the  
10 conviction shall be conclusive evidence thereof.

11 ...

12 9. Section 2765 of the Code states that a plea or verdict of guilty or a  
13 conviction following a plea of nolo contendere made to a charge substantially related to the  
14 qualifications, functions and duties of a registered nurse is deemed to be a conviction within the  
15 meaning of this article. The board may order the license or certificate, when the time for appeal  
16 has elapsed, or the judgment of conviction has been affirmed on appeal or when an order  
17 granting probation is made suspending the imposition of sentence, irrespective of a subsequent  
18 order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw  
19 his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
20 dismissing the accusation, information or indictment.

#### 21 REGULATION PROVISIONS

22 10. California Code of Regulations, Title 16, section 1444, states that a  
23 conviction or act shall be considered to be substantially related to the qualifications, functions or  
24 duties of a registered nurse if to a substantial degree it evidences the present or potential  
25 unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or  
26 welfare. Such convictions or acts shall include but not be limited to the following:

27 ...

28 (b) Failure to comply with any mandatory reporting requirements.

1 (c) Theft, dishonesty, fraud or deceit.

2 . . .

3 11. Section 125.3 of the Code provides, in pertinent part, that the Board may  
4 request the administrative law judge to direct a licensee found to have committed a violation or  
5 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
6 and enforcement of the case.

7 FACTUAL BACKGROUND

8 12. On or about May 4, 2000, a Statement of Issues, Case No. 2000-189, was  
9 filed against Respondent pursuant to her appeal of the Board's denial of her application for  
10 licensure as a Registered Nurse. On or about September 10, 2000, a probationary license was  
11 granted to Respondent for a period of 3 years with the following terms and conditions (set forth  
12 fully in Exhibit A):

13 a. Respondent shall obey all federal, state and local laws.

14 b. Respondent shall fully comply with the terms and conditions of the Probation  
15 Program established by the Board and cooperate with the representatives of the Board in its  
16 monitoring and investigation of the Respondent's compliance with the Probation Program.

17 c. Respondent, during the period of probation, shall appear in person at  
18 interviews/meetings as directed by the Board or its designated representatives.

19 d. Periods of residency or practice as a registered nurse outside of California will  
20 not apply to the reduction of this probationary term.

21 e. Respondent, during the period of probation, shall submit or cause to be  
22 submitted such written reports/declarations and verifications of actions under penalty of perjury,  
23 as required by the Board.

24 f. Respondent shall provide a copy of this decision to the nursing regulatory  
25 agency in every state and territory in which she has a registered nurse license.

26 g. Respondent, during the period of probation, shall engage in the practice of  
27 registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or  
28 as determined by the Board.

1           h. Respondent shall obtain prior approval from the Board before commencing any  
2 employment, paid or voluntary, as a registered nurse.

3           i. Respondent shall obtain prior approval from the Board regarding Respondent's  
4 level of supervision and/or collaboration before commencing any employment as a registered  
5 nurse.

6           j. Respondent shall not work for a nurse's registry, in any private duty position as  
7 a registered nurse, a temporary nurse placement agency, or for an in-house nursing pool.

8           k. Respondent shall comply with the appropriate requirement, as set forth in the  
9 decision:

10           -- Respondent, at her own expense, shall enroll and successfully complete a  
11 course(s) relevant to the practice of registered nursing no later than six months prior to the end of  
12 her probationary term.

13           -- Respondent shall obtain prior approval from the Board before enrolling in the  
14 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
15 completion for the above required course(s).

16           l. If respondent violates the condition of her probation, the Board after giving  
17 Respondent notice and an opportunity to be heard, may set aside the stay order and impose the  
18 stayed discipline (revocation) of Respondent's license.

19           m. Respondent, at her own expense, shall successfully complete during the  
20 probationary period or shall have successfully completed prior to commencement of probation a  
21 Board-approved treatment/rehabilitation program of at least six months.

22           n. Respondent shall completely abstain from the possession, injection or  
23 consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except  
24 when the same are ordered by a health care professional legally authorized to do so and are part  
25 of documented medical treatment.

26           o. Respondent, at her own expense, shall participate in a random, biological fluid  
27 testing or a drug-screening program that the Board approves.

28           13. On or about February 28, 2003, Accusation and Petition to Revoke, No.

1 2000-189, was filed against Respondent for violations of the Business and Professions Code (as  
2 set forth in Exhibit B) governing unprofessional conduct and self-administering a controlled  
3 substance, i.e. Heroin. Further, Respondent failed to comply with the Board's probation program  
4 in that she failed to fully comply with the terms and conditions of her probation; failed to appear  
5 in person at interviews/meetings as directed by the Board; failed to completely abstain from the  
6 possession, injection or consumption by any route of all mood-altering drugs except when the  
7 same is ordered by a health care professional; and, failed to participate in a random, biological  
8 fluid testing or drug-screening program approved by the Board. On or about January 11, 2004,  
9 Respondent's license was revoked by the Board.

10 14. On or about June 25, 2007, Respondent's Registered Nursing license was  
11 reinstated subject to standard terms and conditions of Probation (as set forth fully in Exhibit C)  
12 including but not limited to the following: obey all laws, i.e. report any and all violations of law  
13 by the Respondent to the Board within 72 hours of occurrence; submit written reports as required  
14 by the Board; obtain a physical examination; participate in treatment/rehabilitation program for  
15 chemical dependence; abstain from use of psychotropic (mood-altering) drugs; submit to  
16 biological fluid tests and samples; obtain a mental health examination; and participate in a  
17 therapy or counseling program.

18 15. On or about October 5, 2006, Respondent was charged with the violation  
19 of Penal Code section 484/487(b)(3) in a felony complaint filed in Santa Clara Superior Court,  
20 Case No. CC644327, entitled *People v. Donna Crosby*. On or about September 12, 2007,  
21 Respondent was convicted by her plea of nolo contendere to a misdemeanor violation of Penal  
22 Code section 484/487(b)(3) (grand theft) in that Respondent, in her capacity as a servant, agent  
23 and employee of Realty World, she took personal property in U.S. currency belonging to her  
24 employer Martha Staud ("Victim"). The Court granted Respondent 3 years of probation and  
25 ordered Respondent to serve 120 days in jail. The Court further ordered Respondent to pay fines  
26 and \$8,425.00 in restitution to the victim.

27 16. On or about January 2, 2008, Respondent reported the September 12,  
28 2007, conviction in her quarterly report to the Board for the reporting time period from October 1

1 to December 31, 2007.

2 FIRST CAUSE FOR DISCIPLINE

3 (Substantially Related Conviction)

4 17. Respondent is subject to disciplinary action under section 2761(a)(f),  
5 unprofessional conduct, for the violation of the California Code of Regulations, Title 16, section  
6 1444(c), in that Respondent was convicted by her plea of "nolo contendere" in Santa Clara  
7 Superior Court, Case No. CC644327, entitled *People of the State of California vs. Laura Marie*  
8 *Crosby*, for the violation of Penal Code section 484/487(b)(3), grand theft, in that Respondent, as  
9 a servant, agent and employee, unlawfully took personal property in U.S. Currency, of a value  
10 exceeding four hundred dollars (\$400) as set forth in paragraph 15, above. Respondent's  
11 conviction is substantially related to the qualifications, functions or duties of a registered nurse  
12 and evidences, to a substantial degree, Respondent's present or potential unfitness to practice in  
13 a manner consistent with public health, safety, or welfare.

14 SECOND CAUSE FOR DISCIPLINE

15 (Unprofessional Conduct - Failure to Comply with Disciplinary Order)

16 18. Respondent is subject to disciplinary action under section 2761(a),  
17 unprofessional conduct, for the violation of California Code of Regulations section 1444(b), that  
18 Respondent failed to report her non-compliance with the terms and conditions of her probation as  
19 set forth in paragraphs 15 and 16, above.

20 PETITION TO REVOKE PROBATION

21 19. The allegations of paragraphs 1 through 18 of the Accusation are  
22 incorporated herein by reference and are realleged as if fully set forth.

23 20. On or about June 25, 2007, Respondent's Registered Nursing license was  
24 reinstated subject to terms and conditions of probation.

25 RELEVANT TERMS OF PROBATION

26 21. Pursuant to the Decision of the Board to reinstate Respondent's Registered  
27 Nursing license, the following relevant condition of probation were imposed:

28 1. **Obey All Laws.** Petitioner shall obey all federal, state and local laws. A

1 full and detailed account of any and all violations of law shall be reported by the petitioner to the  
2 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of  
3 compliance with this condition, petitioner shall submit completed fingerprint forms and  
4 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted  
5 as part of the licensure application process.

6 Criminal Court Orders: If petitioner is under criminal court orders, including probation or  
7 parole, and the order is violated, this shall be deemed a violation of these probation conditions,  
8 and may result in the filing of an accusation and/or petition to revoke probation.

9           **2. Comply with the Board's Probation Program.** Petitioner shall fully  
10 comply with the conditions of the Probation Program established by the Board and cooperate  
11 with representatives of the Board in its monitoring and investigation of the petitioner's  
12 compliance with the Board's Probation Program.

13           **5. Submit Written Reports.** Petitioner, during the period of probation, shall  
14 submit or cause to be submitted such written reports/declarations and verifications of actions  
15 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
16 statements relative to petitioner's compliance with all the conditions of the Board's Probation  
17 Program. Petitioner shall immediately execute all release of information forms as may be  
18 required by the Board or its representatives. Petitioner shall provide a copy of this decision to the  
19 nursing regulatory agency in every state and territory in which he or she has a registered nurse  
20 license.

21           **14. Participate in Treatment/Rehabilitation Program for Chemical**  
22 **Dependence.** Petitioner, at her expense, shall successfully complete during the probationary  
23 period or shall have successfully completed prior to commencement of probation, a Board-  
24 approved treatment/rehabilitation program of at least six months duration. As required, reports  
25 shall be submitted by the program on forms provided by the Board. If petitioner has not  
26 completed a Board-approved treatment/rehabilitation program prior to commencement of  
27 probation, petitioner, within 45 days from the effective date of the decision, shall be enrolled in a  
28 program. If a program is not successfully completed within the first nine months of probation,



1 the Board shall consider petitioner in violation of probation.

2           **16. Submit to Tests and Samples.** Petitioner, at her expense, shall participate in  
3 a random, biological fluid testing or a drug screening program which the Board approves. The  
4 length of time and frequency will be subject to approval by the Board. The petitioner is  
5 responsible for keeping the Board informed of petitioner's current telephone number at all times.  
6 Petitioner shall also ensure that messages may be left at the telephone number when she is not  
7 available and ensure that reports are submitted directly by the testing agency to the Board as  
8 directed. Any confirmed positive finding shall be reported immediately to the Board by the  
9 program and the petitioner shall be considered in violation of probation.

10           In addition, petitioner, at any time during the period of probation, shall fully  
11 cooperate with the Board or any of its representatives, and shall, when requested, submit to such  
12 tests and samples as the Board or its representatives may require for the detection of alcohol,  
13 narcotics, hypnotics, dangerous drugs, or other controlled substances.

14           If petitioner has a positive drug screen for any substance not legally authorized  
15 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the  
16 Board files a petition to revoke probation or an accusation, the Board may suspend petitioner  
17 from practice pending the final decision on the petition to revoke probation or the accusation.  
18 This period of suspension will not apply to the reduction of this probationary time period.

19           If petitioner fails to participate in a random, biological fluid testing or drug  
20 screening program within the specified time frame, the petitioner shall immediately cease  
21 practice and shall not resume practice until notified by the Board. After taking into account  
22 documented evidence of mitigation, if the board files a petition to revoke probation or an  
23 accusation, the Board may suspend petitioner from practice pending the final decision on the  
24 petition to revoke probation or the accusation. This period of suspension will not apply to the  
25 reduction of this probationary time period.

26           **17. Mental Health Examination.** The petitioner shall, within 45 days of the  
27 effective date of this decision, have a mental health examination including psychological testing  
28 as appropriate to determine her capability to perform the duties of a registered nurse. The

1 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
2 practitioner approved by the Board. The examining mental health practitioner will submit a  
3 written report of the assessment and recommendations to the Board. All costs are the  
4 responsibility of the petitioner. Recommendations for treatment, therapy or counseling made as a  
5 result of the mental health examination will be instituted and followed by the petitioner.

6 If petitioner is determined to be unable to practice safely as a registered nurse, the  
7 licensed mental health care practitioner making this determination shall immediately notify the  
8 Board and petitioner by telephone, and the Board shall request that the Attorney General's office  
9 prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice  
10 and may not resume practice until notified by the Board. During this period of suspension,  
11 petitioner shall not engage in any practice for which a license issued by the Board is required,  
12 until the Board has notified petitioner that a mental health determination permits petitioner to  
13 resume practice. This period of suspension will not apply to the reduction of the probationary  
14 time period.

15 If the petitioner fails to have the above assessment submitted to the Board within  
16 the 45-day requirement, petitioner shall immediately cease practice and shall not resume practice  
17 until notified by the Board. This period of suspension will not apply to the reduction of this  
18 probationary time period. The Board may waive or postpone this suspension only if significant,  
19 documented evidence of mitigation is provided. Such evidence must establish good faith efforts  
20 by the petitioner to obtain the assessment, and a specific date for compliance must be provided.  
21 Only one such waiver or extension may be permitted.

22 **18. Therapy or Counseling Program.** Petitioner, at her expense, shall  
23 participate in an on-going counseling program until such time as the Board releases her from this  
24 requirement and only upon the recommendation of the counselor. Written progress reports from  
25 the counselor will be required at various intervals.

#### 26 FIRST CAUSE TO REVOKE PROBATION

27 22. Grounds exist to revoke Respondent's probation heretofore entered and  
28 impose the stayed order of revocation in that Respondent has failed to comply with the terms and

1 condition of probation as follows:

2           23.     Respondent failed to comply with condition No. 1 of her probation that  
3 required her to obey all federal, state and local laws in that on or about September 12, 2007,  
4 Respondent was convicted by her plea of nolo contendere to the violation of Penal Code section  
5 484-487(b)(3) for grand theft, a misdemeanor, in the matter entitled *People of the State of*  
6 *California vs. Laura Marie Crosby*, Superior Court of California, San Jose Facility, Case No.  
7 CC644327. Further, Respondent failed to file a full and detailed account of any and all  
8 violations as well as notify the Board in writing within seventy-two (72) hours of occurrence in  
9 that Respondent had a probation orientation meeting with her probation monitor on or about  
10 August 14, 2007, and did not tell her probation monitor about the arrest and continuing court  
11 dates. She did not report the September 12, 2007, conviction until January 2, 2008.

12                           SECOND CAUSE TO REVOKE PROBATION

13           24.     Grounds exist to revoke Respondent's probation heretofore entered and  
14 impose the stayed order of revocation in that Respondent has failed to comply with the terms and  
15 condition of probation as follows:

16           25.     Respondent failed to comply with condition of probation No. 2 requiring  
17 her to fully comply with the conditions of her Probation Program and to cooperate with  
18 representatives of the Board in the monitoring and investigation of her compliance in that she  
19 failed to comply with conditions as set forth herein.

20                           THIRD CAUSE TO REVOKE PROBATION

21           26.     Grounds exist to revoke Respondent's probation heretofore entered and  
22 impose the stayed order of revocation in that Respondent has failed to comply with the terms and  
23 condition of probation as follows:

24           27.     Respondent failed to comply with condition of probation No.5 requiring  
25 her to file written reports with the Board, in that she failed to submit the required Quarterly  
26 Report for October-December 2008 that was due January 7, 2009.

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1                   31.     Respondent failed to comply with condition of probation No.16 requiring  
2 her to submit to tests and samples by participating in a random, biological fluid testing or drug  
3 screening program approved by the Board, in that she failed to call in to the approved drug  
4 screening service and missed random testing on August 1, 2008, and September 19, 2008.

5                                   SIXTH CAUSE TO REVOKE PROBATION

6                   32.     Grounds exist to revoke Respondent's probation heretofore entered and  
7 impose the stayed order of revocation in that Respondent has failed to comply with the terms and  
8 condition of probation as follows:

9                   33.     Respondent failed to comply with condition of probation No.17 requiring  
10 her to submit a valid mental health evaluation in that she provided the Board with an evaluation  
11 from a Psychiatrist who is not an addiction specialist.

12                                   SEVENTH CAUSE TO REVOKE PROBATION

13                   34.     Grounds exist to revoke Respondent's probation heretofore entered and  
14 impose the stayed order of revocation in that Respondent has failed to comply with the terms and  
15 condition of probation as follows:

16                   35.     Respondent failed to comply with condition of probation No.18 requiring  
17 her to verify attendance of on-going counseling by sending the Board an "On - Going Treatment  
18 Verification" from a medical professional who is not qualified to perform on-going treatment or  
19 to excuse Respondent from treatment.

20                                   PRAYER

21                   WHEREFORE, Complainant requests that a hearing be held on the matters herein  
22 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

23                   1.     Revoking the probation that was granted by the Board of Registered  
24 Nursing in Case No. 2000-189 and imposing the disciplinary order that was stayed thereby  
25 revoking Registered Nurse License No. 571898 issued to Donna Leigh Crosby;

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2. Revoking Registered Nurse License No. 571898, issued to Donna Leigh Crosby;
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/1/09

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer, Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

SF2009201459  
40320940.wpd  
ltz 4/13/2009

**Exhibit A**

**Decision and Order**

**Board of Registered Nursing Case No. 2000-189  
OAH Case No. 2000050240**

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of  
Issues Against:

DONNA LEIGH CROSBY  
1115 Valota Road  
Redwood City, CA 94061

Respondent.

Case No. 2000-189

OAH No. N 2000050240

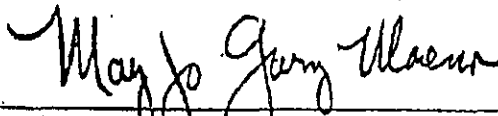
DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby  
adopted by the Board of Registered Nursing as its Decision in the above-entitled matter.

This Decision shall become effective on September 10, 2000.

IT IS SO ORDERED August 11, 2000.

BOARD OF REGISTERED NURSING



MARY JO GORNEY MORENO, Ph.D., RN  
President



BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of  
Issues Against:

DONNA LEIGH CROSBY  
1115 Valota Road  
Redwood City, CA 94061

Respondent.

Case No. 2000-189

OAH No. N 2000050240

PROPOSED DECISION

Administrative Law Judge Melissa G. Crowell, State of California, Office of Administrative Hearings, heard this matter in Oakland, California on June 5, 2000.

Christiana Tiedemann, Deputy Attorney General, represented complainant Ruth Ann Terry, M.P.H., R.N., Executive Officer, Board of Registered Nursing.

Respondent Donna Leigh Crosby was present and represented herself.

The matter was submitted on June 5, 2000.

FACTUAL FINDINGS

1. Complainant Ruth Ann Terry, M.P.H., R.N., made and filed the statement of issues in her official capacity as Executive Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.

2. On or about November 16, 1999, respondent Donna Leigh Crosby submitted to the Board an application for a registered nurse license. The application was denied on or about February 28, 2000. This appeal followed.<sup>1</sup>

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<sup>1</sup> Respondent was permitted to take the National Council Licensing Examination for registered nursing. She took the examination in May of 2000.

3. Respondent admits that the following facts are true:
- A. In 1986 respondent was convicted of misdemeanor forgery in violation of Penal Code section 470. The circumstances of the offense were that respondent forged stolen checks in order to obtain money to purchase illegal controlled substances.
  - B. In 1987 respondent was convicted of misdemeanor theft. Respondent stole money from a hotel in order to purchase heroin.
  - C. In 1987 respondent was convicted of prostitution, a misdemeanor, in violation of Penal Code section 647(b). Respondent engaged in prostitution in order to purchase heroin.
  - D. On October 29, 1987, respondent was convicted of two felony counts of forgery in violation of Penal Code section 470, and two felony counts of using a forged name on a credit card in violation of Penal Code section 484(f)(2). Respondent committed each of these offenses in order to obtain money to purchase heroin. Respondent was placed on two years probation with the condition that she serve 180 days in jail.
  - E. In 1988, respondent was convicted of felonious possession of a controlled substance (heroin) in violation of Health and Safety Code section 11350. Respondent possessed the heroin for her own use. Imposition of sentence was suspended and respondent was placed on probation with the condition that she serve six-months in jail.
  - F. In 1989, respondent was convicted of being under the influence of a controlled substance (heroin). Respondent was placed on probation with the condition that she serve 120 days in jail.
  - G. In April of 1993, respondent was convicted of one count of felony grand theft/embezzlement in violation of Penal Code section 484/487 and four counts of felony check forgery in violation of Penal Code section 470. Respondent committed each of these offenses in order to obtain heroin. Respondent was placed on probation with the condition that she serve seven months in county jail.
  - H. On June 2, 1993, respondent was convicted of prostitution, a misdemeanor, in violation of Penal Code section 647(b). Respondent engaged in prostitution in order to obtain money to purchase heroin. Imposition of sentence was suspended and respondent was placed on three years probation and ordered to serve 25 days in jail.

- I. On January 27, 1995, respondent's probation referenced in Finding 3G above was revoked because she had been using marijuana. Respondent was sentenced to 16 months in prison.
- J. Between 1986 and 1989 and between 1992 and 1995, respondent illegally obtained, used and abused controlled substances including, but not limited to heroin on multiple occasions.

4. The offenses of theft, forgery, possession of controlled substances, and use of controlled substances are substantially related to the qualifications, functions, and duties of a licensed nurse. It was not established by competent evidence that the offense of prostitution is substantially related to the qualifications, functions, and duties of a licensed nurse.

5. Respondent began abusing heroin in 1981, at the age of 15. Each of her criminal offenses stemmed from her addiction. She made several unsuccessful attempts at recovery in 1989 and in 1993, but ultimately relapsed. Her last effort at sobriety was a committed one.

In January of 1995, respondent was sentenced to state prison for violating probation by using marijuana. While respondent had stopped using heroin a few years earlier, she believed that she could continue to use marijuana and alcohol. While in prison, respondent realized the extent of her addiction and that she needed to control it.

When she was released from prison June of 1995, respondent voluntarily entered a residential treatment program called Combined Addicts and Professional Services (CAPS). Following completion of a 45-day program, respondent did not feel strong enough to return to her boyfriend and to her children. She voluntarily entered CAPS' residential program, where she was monitored, tested, and required to attend 12-step meetings on a daily basis. Respondent remained in this environment for six months.

Upon leaving the residential program, respondent enrolled in a CAPS' Women's Relapse Prevention Program, an intensive six-month outpatient program wherein respondent continued to be monitored, tested, and continued to attend 12-step meetings on a daily basis.

Respondent has continued to be active and committed to her recovery. Respondent currently attends meetings of Narcotics Anonymous two to three times a week. She has had the same sponsor for five and one-half years. With her sponsor, who is a licensed clinical social worker, respondent has worked the 12-steps more than once. In addition, respondent works with her sponsor on what she calls the "scary issues" in her life. Respondent herself has been a sponsor for four years. She currently sponsors three women. Respondent has participated on a number of administrative committees at

Narcotics Anonymous. She participates in a subcommittee that provides speakers and 12-step meetings in local jails, transition homes and recovery homes. Respondent has been a Privileged Cardholder at Pathway Society, Inc. for four years. A letter from its Program Director attests that cardholders must demonstrate both sobriety and a positive role model of recovery. Respondent has supported residents in various stages of recovery through sponsorship and by transporting them to 12-step meetings.

6. Respondent has been clean and sober for six years. Her two previous attempts at sobriety ended in relapses about year three. She believes that this time she had made it past her pivotal point and will not relapse because of the depth of her commitment to recovery. Respondent recognizes that during her previous two attempts she did not commit to the 12-step program and did not fully admit to her addiction.

7. Following her transaction from CAPS, respondent reunited with her long time boyfriend<sup>2</sup> (whom she married in 1996) and her two children. Dissatisfied with clerical work, respondent decided to pursue her dream and enrolled in the nursing program at DeAnza College in the fall of 1995. She graduated magna cum laude in June of 2000. Her long-range plan includes returning to school to become a nurse practitioner.

8. Respondent has held a number of positions since her release from prison. Letters from employers attest that she was a hardworking, honest, and responsible employee.

9. Since April of 2000, respondent has been employed as a graduate nurse at Ralston Village, a care facility for seniors suffering from Alzheimer's and Dementia. She supervises a client base of 25 adults suffering from Alzheimer's, and a staff of four to six caregivers. A letter from Executive Director Nina Mazzo attests that respondent is a capable employee who is caring and compassionate to residents.

10. Respondent supports her two teenaged children and her daughter's child. She is currently separated from her husband, but they are trying to work out their differences.

11. Respondent requests that she be granted a license without restriction so that she can start out her nursing career without what she perceives to be a black mark. She recognizes that the Board may have legitimate concerns about granting her an unrestricted license and is willing to comply with any term imposed by the Board. She asks that the length of probation be two rather than three years. Complainant avers that a three-year period of probation is warranted given respondent's long history of substance abuse and of relapsing.

---

<sup>2</sup> He has been clean and sober for 14 years.

## LEGAL CONCLUSIONS

1. Under section 480(a)(1), the Board may deny an application for licensure where the applicant has been convicted of a crime. By reason of the matters set forth in Finding 3 respondent has numerous criminal convictions. Cause for denial exists.

2. Under section 480(a)(3) of the Business and Professions Code, the Board may deny an application for licensure if the applicant has done "any act which if done by a licentiate . . . would be grounds for suspension or revocation of license." Under section 2761(f) of the Business and Professions Code, the Board may discipline a licensee convicted of a felony "or of any offense substantially related to the qualifications, functions, and duties of a registered nurse." By reason of the matters set forth in Findings 3 and 4, respondent has numerous convictions of criminal offenses substantially related to the qualifications, functions and duties of a licensed nurse. Cause for denial exists.

3. Under section 480(a)(2) of the Business and Professions Code the Board may deny an application for licensure where the applicant has committed an act "involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or another, or substantially injure another." By reasons of the matters set forth in Finding 3, respondent has been convicted of numerous criminal offenses involving dishonesty with the intent to benefit her. Cause for denial exists.

4. Under section 480(a)(3) of the Business and Professions Code, the Board may deny an application for licensure if the applicant has done "any act which if done by a licentiate . . . would be grounds for suspension or revocation of a license." Under section 2762(a) of the Business and Professions Code, it is unprofessional conduct for a licensee to "[o]btain or possess in violation of law . . . any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022." By reason of the matters set forth in Finding 3, respondent has obtained and possessed controlled substances on numerous occasions. Cause for denial exists.

5. Under section 480(a)(3) of the Business and Professions Code, the Board may deny an application for licensure if the applicant has done "any act which if done by a licentiate . . . would be grounds for suspension or revocation of a license." Under section 2762(b) of the Business and Professions Code, it is unprofessional conduct for a licensee to "[u]se any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022, or any alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or to the public. . . ." By reason of the matters set forth in Finding 3, respondent has used controlled substances on numerous occasions. Cause for denial exists.

6. Under section 480(a)(3) of the Business and Professions Code, the Board may deny an application for licensure if the applicant has done "any act which if done by a licensee . . . would be grounds for suspension or revocation of a license." Under section 2762(c) of the Business and Professions Code, it is unprofessional conduct for a licensee to be "[c]onvicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) or (b) of this section, or the possession of . . . the substances described in subdivision (a) of this section . . . ." By reason of the matters set forth in Finding 3, respondent has been convicted of an offense involving the self-administration of a controlled substance. Cause for denial exists.

7. Respondent is to be commended for the tremendous changes she has made in her life and for her success in controlling her substance abuse. But as she candidly admitted at the hearing, the Board has legitimate concerns about her history of substance abuse, her history of criminal activity to support her habit, and her history of relapse. In view of this track record, the public interest can only be protected by the issuance of a probationary license with conditions that she abstain from the use of controlled substances, submit to random testing, and actively continue in recovery. In view of the length of time of respondent's addiction, a three-year period of probation is appropriate.

#### ORDER

The application of respondent Donna Leigh Crosby for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of three (3) years on the following terms and conditions:

1. Each term and condition of probation contained herein is a separate and distinct term and condition. If any term and condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each term and condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.
2. Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this term, respondent shall submit completed fingerprint cards and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Respondent shall submit a recent 2" X 2" photograph of herself within 45 days of the effective date of the final decision.

3. Respondent shall fully comply with the terms and conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.
4. Respondent, during the period of probation, shall appear in person at interviews/meetings as directed by the Board or its designated representatives.
5. Periods of residency or practice as a registered nurse outside of California will not apply to the reduction of this probationary term. The respondent must provide written notice to the Board within 15 days of any change of residency or practice outside the state.
6. Respondent, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to respondent's compliance with all the terms and conditions of the Board's Probation Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.
7. Respondent shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which she has a registered nurse license.
8. Respondent, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If respondent has not complied with this condition during the probationary term, and the respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the respondent's probation period up to one year without further hearing in order to comply with this condition.

9. Respondent shall obtain prior approval from the Board before commencing any employment, paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Respondent shall provide a copy of this decision to her employer and immediate supervisor prior to commencement of any nursing or other health care related employment.

Respondent shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment, when such employment is not as a registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours after she is terminated from any registered nursing, other nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination.

10. Respondent shall obtain prior approval from the Board regarding respondent's level of supervision and/or collaboration before commencing any employment as a registered nurse.

Respondent shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:



- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
- (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours respondent works.
- (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with respondent at least twice during each shift worked.
- (d) Home Health Care - If respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the respondent with or without respondent present.

11. Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If the respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

12. Respondent shall comply with the appropriate requirement, as specified in the decision:

- a) Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to respondent after photocopying them for its records.

13. If respondent violates the conditions of her probation, the Board after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board. Upon successful completion of probation, the respondent's license will be fully restored.

14. Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months. As required, reports shall be submitted by the program on forms provided by the Board. If respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a

program is not successfully completed within the first nine months of probation, the Board shall consider respondent in violation of probation.

Based on Probation Program recommendation, each week respondent shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Respondent shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

15. Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so and are part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing physician or dentist, a report identifying the medication, dosage, the date the medication was prescribed, the respondent's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Respondent shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of respondent's history of substance abuse and will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

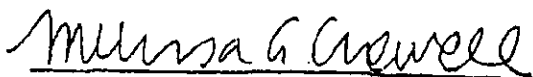
16. Respondent, at her expense, shall participate in a random, biological fluid testing or a drug-screening program that the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of

respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation.

In addition, respondent, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If respondent has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend respondent from practice pending the final decision on the petition to revoke probation or the accusation.

DATED: June 5, 2000



MELISSA G. CROWELL

Administrative Law Judge

Office of Administrative Hearings

1 BILL LOCKYER, Attorney General  
of the State of California  
2 CHRISTIANA TIEDEMANN, State Bar No. 105299  
Deputy Attorney General  
3 California Department of Justice  
1515 Clay Street, Suite 2000  
4 Oakland, California 94612  
Telephone: (510) 622-2218  
5 Facsimile: (510) 622-2270  
6 Attorneys for Complainant

7  
8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues Against:

Case No. 2000-189

12 DONNA LEIGH CROSBY  
1115 Valota Road  
13 Redwood City, CA 94061

**STATEMENT OF ISSUES**

14 Applicant/Respondent

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this statement of  
19 issues solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
20 Department of Consumer Affairs.

21 2. On or about November 16, 1999, Donna Leigh Crosby ("Respondent")  
22 submitted an application for a registered nurse license to the Board of Registered Nursing. The  
23 application was denied on or about February 28, 2000

24 **JURISDICTION**

25 3. This Statement of Issues is brought before the Board of Registered  
26 Nursing ("Board"), under the authority of the following sections of the Business and Professions  
27 Code ("Code").  
28

1                   4.     Section 480 of the Code states in pertinent part:

2                   (a) A board may deny a license regulated by this code on the grounds that the applicant  
3                   has done one of the following:

4                             (1) Been convicted of a crime. A conviction within the meaning of  
5                             this section means a plea or verdict of guilty or a conviction  
6                             following a plea of nolo contendere. Any action which a board is  
7                             permitted to take following the establishment of a conviction may  
8                             be taken when the time for appeal has elapsed, or the judgment of  
9                             conviction has been affirmed on appeal, or when an order granting  
10                            probation is made suspending the imposition of sentence,  
11                            irrespective of a subsequent order under the provisions of Section  
12                            1203.4 of the Penal Code.

13                           (2) Done any act involving dishonesty, fraud or deceit with the intent to  
14                            substantially benefit himself or another, or substantially injure another; or  
15                            (3) Done any act which if done by a licentiate of the business or profession  
16                            in question, would be grounds for suspension or revocation of license.

17                           The board may deny a license pursuant to this subdivision only if the  
18                           crime or act is substantially related to the qualifications, functions or  
19                           duties of the business or profession for which application is made.

20                   5.     Section 2761 of the Code states the board may take disciplinary action  
21                   against a certified or licensed nurse or deny an application for a certificate or license for any of  
22                   the following:

23                           (a) Unprofessional conduct;

24                           (f) Conviction of a felony or of any offense substantially related to the qualifications,  
25                           functions, and duties of a registered nurse, in which event the record of the conviction  
26                           shall be conclusive evidence thereof.

27                   6.     Section 2762 of the Code states in addition to other acts constituting  
28                   unprofessional conduct within the meaning of this chapter it is unprofessional conduct for a

1 person licensed under this chapter to do any of the following:

2 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
3 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
4 administer to another, any controlled substance as defined in Division 10 (commencing  
5 with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous  
6 device as defined in Section 4022.

7 (b) Use any controlled substance as defined in Division 10 (commencing with Section  
8 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as  
9 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or  
10 injurious to himself or herself, any other person, or the public or to the extent that such  
11 use impairs his or her ability to conduct with safety to the public the practice authorized  
12 by his or her license.

13 (c) Be convicted of a criminal offense involving the prescription, consumption, or  
14 self-administration of any of the substances described in subdivisions (a) and (b) of this  
15 section, or the possession of, or falsification of a record pertaining to, the substances  
16 described in subdivision (a) of this section, in which event the record of the conviction is  
17 conclusive evidence thereof.

18 7. Section 125.3 of the Code states, in pertinent part, that the Board may request  
19 the administrative law judge to direct a licentiate found to have committed a violation or  
20 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
21 and enforcement of the case.

22 **FIRST CAUSE FOR DENIAL OF APPLICATION**

23 (Criminal Conviction--Check Forgery )

24 8. Respondent's license application is subject to denial pursuant to Code sections  
25 480(a)(1), 480(a)(2), 480(a)(3), and 2761(f) in that in 1986 she was convicted of a misdemeanor  
26 criminal offense in the San Mateo County Municipal Court for forgery using stolen checks. By  
27 respondent's own admission, the checks were stolen and forged in order to obtain money to buy  
28 illegal controlled substances.

1                                   **SECOND CAUSE FOR DENIAL OF APPLICATION**

2                                   (Criminal Conviction-Theft)

3                   9. Respondent's license application is subject to denial pursuant to Code sections  
4 480(a)(1), 480(a)(2), 480(a)(3), and 2761(f) in that in 1987 she was convicted of a misdemeanor  
5 criminal offense in the San Mateo County Municipal Court for theft of money from a motel. By  
6 respondent's own admission, she took the money in order to buy heroin for her own use.

7                                   **THIRD CAUSE FOR DENIAL OF APPLICATION**

8                                   (Criminal Conviction-Prostitution)

9                   10. Respondent's license application is subject to denial pursuant to Code  
10 sections 480(a)(1), 480(a)(3), and 2761(f) in that in 1987 she was convicted of a misdemeanor  
11 violation of Penal Code section 647(B) (prostitution). By respondent's own admission, she was  
12 engaging in acts of prostitution to support her heroin habit.

13                                  **FOURTH CAUSE FOR DENIAL OF APPLICATION**

14                                  (Criminal Conviction-False Impersonation and Forgery)

15                   11. Respondent's license application is subject to denial pursuant to Code  
16 sections 480(a)(1), 480(a)(2), 480(a)(3), and 2761(f) in that in 1987 she was convicted of four  
17 felony offenses in the Santa Clara County Municipal Court, in case number 117475. Respondent  
18 was convicted of two felony violations of Penal Code section 470 (forgery) and two felony  
19 violations of Penal Code section 484(r)(2) (use of a forged name on a credit card). Respondent  
20 was placed on two years probation with the condition that she serve 180 days in the county jail.  
21 By respondent's own admission, she engaged in these felonious acts in order to obtain money to  
22 support her heroin habit.

23                                  **FIFTH CAUSE FOR DENIAL OF APPLICATION**

24                                  (Criminal Conviction-Possession of a Controlled Substance)

25                   12. Respondent's license application is subject to denial pursuant to Code  
26 sections 480(a)(1), 480(a)(3), 2761(f), 2762(a) and 2762(c) in that in 1988 she was convicted in  
27 the San Mateo County Superior Court, in case number C19210-01, of a felony violation of  
28 Health and Safety Code section 11350 (possession of a controlled substance--heroin). By



1 respondent's own admission, she possessed the heroin for her own use. Respondent was placed  
2 on three years probation and sentenced to six months in the county jail as a result of the  
3 conviction.

4 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

5 (Criminal Conviction-Being Under the Influence of a Controlled Substance)

6 13. Respondent's license application is subject to denial pursuant to Code  
7 sections 480(a)(1), 480(a)(3), 2761(f), 2762(b) and 2762(c) in that in 1989 she was convicted in  
8 the San Mateo County Superior Court of being under the influence of heroin and sentenced to  
9 120 days in the county jail for the offense.

10 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

11 (Criminal Conviction-Embezzlement and Check Forgery)

12 14. Respondent's license application is subject to denial pursuant to Code  
13 sections 480(a)(1), 480(a)(2), 480(a)(3) and 2761(f) in that in 1993 she was convicted in the  
14 Santa Clara County Superior Court, in case number 163919, of one felony violation of Penal  
15 Code section 484/487.1 (grand theft/embezzlement) and four felony violations of Penal Code  
16 section 470 (check forgery). Respondent was sentenced to seven months in the county jail for  
17 the offense. By respondent's own admission, she committed the offenses in order to obtain  
18 money to buy heroin for her own use.

19 **EIGHTH CAUSE FOR DENIAL OF APPLICATION**

20 (Criminal Conviction-Prostitution)

21 15. Respondent's license application is subject to denial pursuant to Code  
22 sections 480(a)(1), 480(a)(3), and 2761(f) in that in 1993 she was convicted of a misdemeanor  
23 violation of Penal Code section 647(B) (prostitution) in the San Mateo County Municipal Court,  
24 in case number SM248624A. Respondent was placed on three years probation and sentenced to  
25 25 days in the county jail. By respondent's own admission, she was engaging in acts of  
26 prostitution to support her heroin habit.

27

28

1 **NINTH CAUSE FOR DENIAL OF APPLICATION**

2 (Use of Controlled Substance)

3 16. Respondent's license application is subject to denial pursuant to Code  
4 sections 480(1)(3) , 2761(a) and 2762(b) in that in 1993 in a routine drug test which was a  
5 condition of her criminal probation she tested positive for marijuana, resulting in the revocation  
6 of her probation and an order that she serve 16 months in state prison. By respondent's own  
7 admission, she had, in fact been using marijuana prior to the drug test.

8 **TENTH CAUSE FOR DENIAL OF APPLICATION**

9 (Obtaining and Using Controlled Substances)

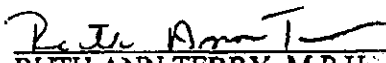
10 17. Respondent's license application is subject to denial pursuant to Code  
11 sections 480(1)(3) , 2761(a), 2762(a) and 2762(b) in that between 1986 and 1989 and between  
12 1992 and 1995; respondent on multiple occasions illegally obtained, used and abused illegal  
13 controlled substances, including but not limited to heroin.

14  
15 **PRAYER**

16 **WHEREFORE**, Complainant requests that a hearing be held on the matters  
17 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 18 1. Denying the application of Donna Leigh Crosby for a Registered Nurse  
19 license;  
20 2. Taking such other and further action as the Board of Registered Nursing  
21 deems necessary and proper.

22 DATED: May 4, 2000

23  
24   
25 RUTH ANN TERRY, M.P.H., R.N.  
26 Executive Officer  
27 Board of Registered Nursing  
28 Department of Consumer Affairs  
State of California  
Complainant

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**Exhibit B**

**Decision and Order**

**Board of Registered Nursing Case No. 2000-189  
OAH Case No. 2003070828**

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition  
to Revoke Probation Against:

DONNA LEIGH CROSBY  
3817 Williams Road, #4  
San Jose, CA 95117

Registered Nurse License No. 571898

Respondent.

Case No. 2000-189

OAH No. N2003070828

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted  
and adopted as the Decision of the Director of Consumer Affairs in the above-entitled matter.

This Decision shall become effective on January 11, 2004.

IT IS SO ORDERED.

DATE: December 12, 2003

*Sandra R. Erickson*

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation and Petition  
to Revoke Probation Against:

DONNA LEIGH CROSBY  
3817 Williams Road, #4  
San Jose, CA 95117

Registered Nurse License No. 571898

Respondent.

Case No. 2000-189

OAH No. N2003070828

**PROPOSED DECISION**

This matter was heard before Administrative Law Judge Jonathan Lew, State of California, Office of Administrative Hearings on October 23, 2003, in Oakland, California.

Complainant was represented by Senior Legal Analyst Lydia Zane.

Donna Leigh Crosby appeared on her own behalf.

The case was submitted for decision on October 23, 2003.

**FACTUAL FINDINGS**

1. Ruth Ann Terry, M.P.H., R.N. (complainant) brought the Accusation and Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board of Registered Nursing (Board), Department of Consumer Affairs.
2. On September 14, 2000, the Board issued Registered Nurse License No. 571898 to Donna Leigh Crosby (respondent). The license will expire on November 30, 2003, unless renewed.
3. In a disciplinary action entitled "In the Matter of the Statement of Issues Against Donna Leigh Crosby," Case No. 2000-189, the Board issued a decision, effective September 10, 2000, in which respondent was denied a Registered Nurse License. However, the revocation was stayed and respondent was issued a license

and was placed on probation for a period of three (3) years with certain terms and conditions.

Complainant contends that respondent has subjected her license to discipline by reason of her engaging in unprofessional conduct and also obtaining, possessing and self-administering a controlled substance. In addition, complainant contends that respondent failed to comply with specified conditions of her probation program.

4. Wesley Miyamura is the probation monitor assigned by the Board to respondent's case. He met with her initially on September 27, 2000. At that time he discussed each condition of probation to make sure that she understood the probation requirements and also her responsibilities.

Mr. Miyamura received information about respondent being admitted in July 2002 to Good Samaritan Hospital in San Jose. Her admitting diagnosis was acute cellulitis of the right thigh secondary to intravenous drug (Heroin) usage. He made arrangements to meet with respondent on September 17, 2002. She did not know that he knew about her hospitalization. Mr. Miyamura asked respondent about her admission to Good Samaritan Hospital. She indicated that she had fallen off a bicycle and that her leg became infected. He asked her if there was anything else she wanted to discuss with respect to her hospital stay and she volunteered no other information. Only after Mr. Miyamura advised her that he had documents from her hospital stay did she admit to drug use.

5. Respondent acknowledged having relapsed on heroin five months previous and using up to a half gram per day. She put herself on methadone and admitted to cheating on her "bottles" so that drug screening would not detect her use of drugs. Specifically, since relapsing in May 2002, she brought in outside urine from her son and substituted it for her own. At hearing, respondent acknowledges all accusation allegations relating to drug use – essentially that she possessed and injected mood-altering drugs, such as Heroin, Cocaine and Vicodin without possessing a lawful prescription, that she provided false information to her probation monitor about the true reason she was hospitalized in July 2002, and that she substituted her son's urine for her own when required to submit to urine testing between April and September 2002. Such matters constitute unprofessional conduct.

6. Probation Conditions

- a. Condition #3 provides: "Respondent shall fully comply with the terms and conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension."

Respondent failed to comply with this condition when she possessed and injected mood-altering drugs without possessing a lawful prescription, when she provided false information to her probation monitor and when she substituted her son's urine for her own when required to submit to urine testing.

- b. Condition #4 provides: "Respondent during the period of probation shall appear in person at interviews/meetings as directed by the Board or its designated representatives." She failed to appear for her probation interviews on September 19, 2001, May 21, 2002, and September 30, 2003.<sup>1</sup> These interviews were regularly scheduled and notices to attend were mailed to her address of record. Respondent's last scheduled interview was September 30, 2003. The last time that Mr. Miyamura met with her was in May 2003.
- c. Condition #15 provides: "Respondent shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so and are part of documented medical treatment. Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing physician or dentist, a report identifying the medication, dosage, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate."

By reason of the matters set forth in Finding 5, respondent failed to comply with this condition. She has admitted to use of Heroin, Cocaine and Vicodin in 2002. She has submitted no letter from a physician or dentist authorizing her use of same.

- d. Condition #16 provides: "Respondent, at her expense, shall participate in a random, biological fluid testing or drug-screening program that the Board approves. The length of time and frequency will be subject to approval by the Board. The respondent is responsible for keeping the Board informed of respondent's current telephone number at all times. Respondent shall also ensure that messages may be left at the telephone number when she is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the respondent shall be considered in violation of probation."

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<sup>1</sup> At the time of hearing the Accusation and Petition to Revoke Probation was amended to correct the September 19, 2001 date, and to add the September 30, 2003 date.

Respondent has failed to comply with this probation condition. She failed to submit to random drug screening on July 29, 2002, and August 7, 2002.<sup>2</sup> She also failed to submit to random drug screening on time. Specimens were submitted late on December 27, 2000, April 19, 2001, May 15, 2001, and October 10, 2001. Respondent notes that she has gone to the lab and signed in, but then has had to wait for up to 45 minutes to be seen. This has made it appear that she was late for screens on more than one occasion. Respondent also failed to comply with probation conditions #16 when she submitted her son's urine specimens and represented them as her own over the period April to September 2002.

7. Respondent does not deny that she violated terms and conditions of her probation. Prior to her relapse she complied with all probation terms and conditions and had abstained from all drug use. She successfully completed a residential treatment program. She was employed as a registered nurse at O'Connor Hospital and received excellent reviews. Unfortunately, she was forced to relocate to get away from an abusive relationship. She moved to the central valley and was unable to establish a new support base. She no longer participated in Narcotics Anonymous or other substance abuse program. She took Vicodin prescribed for migraine headaches and then began to abuse this medication. Within a year she returned to the Bay Area.

Respondent began to use heroin. She was too afraid to report this to her probation monitor. She did enroll herself as a patient of the Santa Clara Valley Health and Hospital System in and Extended Detox Program between February 27, 2002, through May 29, 2002, and methadone maintenance from May 30, 2002 through September 17, 2002. This program was supervised by a license physician. She currently attends three to four 12-step meetings a week, and works closely with her sponsor, Roseann Berthron-Arechiga. She is also participating in the beginning stages of a women's group. Respondent avers that she has been clean and sober from the end of her methadone maintenance program in September 2002.

8. Respondent currently works as a consultant with a medical equipment company. She supports her son (age 18) and a grandchild. Respondent maintains that she has never allowed her drug problems to compromise patient care. After her relapse she recognized her problems and sought treatment on her own accord. She resigned from her nursing position out of concern for patients and to avoid issues resulting from impaired thinking/functioning. She devoted herself to methadone treatment and recovery. Over this period she experienced a rather dramatic reduction in income as well. She was afraid to report these matters to the Board because of ramifications to her license. Respondent explains that she was homeless for a season

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<sup>2</sup> Although not alleged in the Accusation and Petition to Revoke Probation, there was also a failure to comply with random drug screening on October 15, 2002, November 14, 2002, December 26, 2002, December 30, 2002, January 21, 2003, April 7, 2003, June 19, 2003, June 26, 2003, and October 6, 2003.



and did not have regular telephone access. This was why she missed Board requests drug screening. She moved to a relatively stable situation only this month.

Respondent believes she is no longer impaired. She views probation, and event the relapse, as important elements of her recovery. She believes that she can now practice nursing safely and competently.

### LEGAL CONCLUSIONS

1. Cause for disciplinary action exists under Business and Professions Code section 2761, subdivisions (a) and (d), on the grounds of unprofessional conduct, by reason of the matters set forth in Findings 4 and 5.

2. Cause for disciplinary action exists under Business and Professions Code sections 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Business and Professions Code section 2762, subdivision (a), by reason of the matters set forth in Findings 4 and 5.

3. Probation Condition #13 provides that if respondent violates the conditions of her probation, the Board after giving respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of respondent's license. Cause to revoke respondent's probation exists by reason of the matters set forth in Finding 6.

4. The matters set forth in Findings 7 and 8 were considered. Respondent's relapse and current recovery point to the very difficult path towards and relatively fragile nature of drug rehabilitation. The Board, and in particular Mr. Miyamura, have extended every accommodation and have worked with and have largely supported respondent to date. They are no longer confident that they can work with respondent. She has been untruthful and the Board has come by critical information only indirectly, not through direct disclosures from respondent. For long periods the Board has not been able to reliably communicate information about drug screens with her. She has only recently moved into a stable home situation where the Board can regularly contact her. How long this lasts is uncertain. As recently as October 6, 2003, she failed to comply with a drug screen request. She missed her latest scheduled meeting with Mr. Miyamura. Respondent is no doubt sincere in her desire to abide by Board probationary terms and conditions. Unfortunately, she has not been able to demonstrate by her actions any consistent history or pattern of doing so.

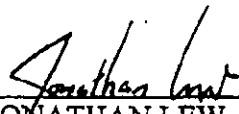
For these reasons it would not be in the public interest for respondent to continue on Board probation at this time. Respondent will hopefully progress in her drug recovery program and reach a stage where the Board can reevaluate her situation and give positive consideration to her practicing nursing at that time.

## ORDER

Registered Nurse License No. 57198 issued to Donna Leigh Crosby is revoked pursuant to Legal Conclusions 1 and 2, jointly and individually.

The probation granted by the Board in Case No. 2000-189 is revoked pursuant to Legal Conclusion 3. The disciplinary order that was stayed is now imposed, thereby revoking Registered Nurse License No. 57198 issued to Donna Leigh Crosby.

DATED: 10/31/03

  
\_\_\_\_\_  
JONATHAN LEW  
Administrative Law Judge  
Office of Administrative Hearings

1 BILL LOCKYER, Attorney General  
of the State of California  
2 HANNAH HIRSCH ROSE, State Bar No. 56276  
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6 Attorneys for Complainant

7 **BEFORE THE**  
8 **BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation and Petition to  
Revoke Probation Against:

Case No. 2000-189

11 DONNA LEIGH CROSBY  
12 202 Calvert Street, Apt. #109  
13 Cupertino, California 95014

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

14 Registered Nurse License No. 571898

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation and  
20 Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board  
21 of Registered Nursing, Department of Consumer Affairs.

22 2. On or about September 14, 2000, the Board of Registered Nursing issued  
23 Registered Nurse License No. 571898 to Donna Leigh Crosby (Respondent). The license will  
24 expire on November 30, 2003, unless renewed.

25 3. In a disciplinary action entitled "In the Matter of Statement of Issues  
26 Against Donna Leigh Crosby," Case No. 2000-189, the Board of Registered Nursing, issued a  
27 decision, effective September 10, 2000, in which Respondent was denied a Registered Nurse  
28 License. However, the revocation was stayed and respondent was issued a license and was

1 placed on probation for a period of three (3) years with certain terms and conditions. A copy of  
2 that decision is attached as Exhibit A and is incorporated by reference.

### 3 JURISDICTION

4 4. This Petition to Revoke Probation is brought before the Board of  
5 Registered Nursing (Board), Department of Consumer Affairs under the authority of the below  
6 mentioned statutes and regulations.<sup>1</sup>

### 7 STATUTORY PROVISIONS

8 5. Section 2750 of the Business and Professions Code (Code) provides, in  
9 pertinent part, that the Board may discipline any licensee, including a licensee holding a  
10 temporary or an inactive license, for any reason provided in Article 3 (commencing with section  
11 2750) of the Nursing Practice Act.

12 6. Section 2764 of the Code provides, in pertinent part, that the expiration of  
13 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
14 against the licensee or to render a decision imposing discipline on the license. Under section  
15 2811(b) of the Code, the Board may renew an expired license at any time within eight years after  
16 the expiration.

17 7. Section 2761 of the Code states:

18 "The board may take disciplinary action against a certified or licensed nurse or  
19 deny an application for a certificate or license for any of the following:

20 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

21 " . . .

22 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or  
23 abetting the violating of, or conspiring to violate any provision or term of this chapter [the  
24 Nursing Practice Act] or regulations adopted pursuant to it.

25 8. Section 2762 of the Code states:

---

27  
28 1. All statutory references are to the Business and Professions Code (Code) unless  
otherwise indicated.

1 "In addition to other acts constituting unprofessional conduct within the meaning  
2 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed  
3 under this chapter to do any of the following:

4 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a  
5 licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish  
6 or administer to another, any controlled substance as defined in Division 10 (commencing with  
7 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
8 defined in Section 4022. . . ."

9 9. Section 125.3 of the Code provides, in pertinent part, that the Board may  
10 request the administrative law judge to direct a licentiate found to have committed a violation or  
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
12 and enforcement of the case.

#### 13 DRUGS

14 10. Heroin is a Schedule I controlled substance as designated by Health and  
15 Safety Code Section 11054(c)(11) and is a dangerous drug pursuant to Business and Professions  
16 Code Section 4022.

17 11. Vicodin is a compound consisting of 5 mg. hydrocodone bitartrate also  
18 known as dihydrocodeinone and 500 mg. acetaminophene, a Schedule III controlled substance as  
19 designated by Health and Safety Code Section 11056(e)(4).

20 12. Cocaine is a Schedule I controlled substance as designated by Health and  
21 Safety Code Section 11054(f)(1) and is a dangerous drug pursuant to Business and Professions  
22 Code Section 4022.

#### 23 FIRST CAUSE FOR DISCIPLINE

##### 24 (Unprofessional Conduct)

25 13. Respondent has subjected her license to discipline under Business and  
26 Professions Code section 2761(a) for violating section 2761(d) of the Code on the grounds of  
27 unprofessional conduct by reason of her conduct as set forth as follows:

28 a. Respondent admitted on September 17, 2002 and September 23,

1 2002 that she possessed and injected mood-altering drugs, such as Heroin, Vicodin, and Cocaine  
2 without possessing a lawful prescription.

3 b. On September 17, 2002, respondent failed to cooperate with her  
4 Probation Monitor by providing false information, during a probation interview, about the true  
5 reason she was hospitalized on July 30, 2002.

6 c. Respondent admitted that from April 2002 to September 3, 2002  
7 she substituted another person's urine for her own when required to submit to urine testing.

#### 8 SECOND CAUSE FOR DISCIPLINE

9 (Obtaining, Possessing, and Self-Administering a Controlled Substance)

10 14. Respondent has subjected her license to discipline under Business and  
11 Professions Code §2761(a) on the grounds of unprofessional conduct, as defined by section  
12 2762(a) of the Code by reason of her conduct set forth in paragraph 13a.

#### 13 FIRST CAUSE TO REVOKE PROBATION

14 (COMPLY WITH PROBATION PROGRAM)

15 15. At all times after the effective date of Respondent's probation, Condition  
16 #3 stated:

17 Respondent shall fully comply with the terms and conditions of the Probation  
18 Program established by the Board and cooperate with representatives of the Board  
19 in its monitoring and investigation of the respondent's compliance with the  
20 Probation Program. Respondent shall inform the Board in writing within no more  
21 than 15 days of any address change and shall at all times maintain an active,  
22 current license status with the Board, including during any period of suspension.

23 16. Respondent's probation is subject to revocation because she failed to  
24 comply with Probation Condition #3, referenced above. The facts and circumstances regarding  
25 this violation are as follows:

26 a. Respondent admitted on September 17, 2002 and September 23,  
27 2002 that she possessed and injected mood-altering drugs without possessing a lawful  
28 prescription.

1                   b.     On September 17, 2002, respondent failed to cooperate with her  
2 Probation Monitor by providing false information, during a probation interview, about the true  
3 reason she was hospitalized on July 30, 2002.

4                   c.     Respondent admitted that from April 2002 to September 3, 2002  
5 she substituted another person's urine for her own when required to submit to urine testing.

6                                 SECOND CAUSE TO REVOKE PROBATION

7                                 (Failure to Appear at Interviews)

8                   17.     At all times after the effective date of Respondent's probation, Condition  
9 #4 stated:

10                                 Respondent, during the period of probation, shall appear in person at  
11 interviews/meetings as directed by the Board or its designated representatives.

12                   18.     Respondent's probation is subject to revocation because she failed to  
13 comply with Probation Condition #4, referenced above. The facts and circumstances regarding  
14 this violation is that the respondent failed to appear for her probation interviews on May 21, 2002  
15 and September 19, 2002.

16                                 THIRD CAUSE TO REVOKE PROBATION

17                                 (ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS)

18                   19.     At all times after the effective date of Respondent's probation, Condition  
19 #15 stated:

20                                 Respondent shall completely abstain from the possession, injection or  
21 consumption by any route of all psychotropic (mood altering) drugs, including  
22 alcohol, except when the same are ordered by a health care professional legally  
23 authorized to do so and are part of documented medical treatment. Respondent  
24 shall have sent to the Board, in writing and within fourteen (14) days, by the  
25 prescribing physician or dentist, a report identifying the medication, dosage, the  
26 date the medication was prescribed, the respondent's prognosis, the date the  
27 medication will no longer be required, and the effect on the recovery plan, if  
28 appropriate.

1 Respondent shall identify for the Board a single physician, nurse practitioner or  
2 physician assistant who shall be aware of respondent's history of substance abuse  
3 and will coordinate and monitor any prescriptions for respondent for dangerous  
4 drugs, controlled substances or mood-altering drugs. The coordinating physician,  
5 nurse practitioner, or physician assistant shall report to the Board on a quarterly  
6 basis respondent's compliance with this condition. If any substances considered  
7 addictive have been prescribed, the report shall identify a program for the time  
8 limited use of any such substances.

9 The Board may require the single coordinating physician, nurse practitioner, or  
10 physician assistant to be a specialist in addictive medicine, or to consult with a  
11 specialist in addictive medicine.

12 20. Respondent's probation is subject to revocation because she failed to  
13 comply with Probation Condition #15, referenced above. The facts and circumstances regarding  
14 this violation are that the respondent failed to completely abstain from the possession,  
15 consumption and ingestion of mood-altering drugs including alcohol based upon of her  
16 admissions for her actions set forth as follows :

- 17 a. Respondent admitted that she used Heroin from April 2002 to August  
18 2002.
- 19 b. Respondent admitted that she used Vicodin from January to March 2002.
- 20 c. Respondent admitted that she used Cocaine during the month of August  
21 2002.

#### 22 FOURTH CAUSE TO REVOKE PROBATION

23 (SUBMIT TO TESTS AND SAMPLES)

24 21. At all times after the effective date of Respondent's probation, Condition  
25 #16 stated:

26 Respondent, at her expense, shall participate in a random, biological fluid testing  
27 or a drug-screening program that the Board approves. The length of time and  
28 frequency will be subject to approval by the Board. The respondent is responsible



1 entitled In the Matter of the Statement of Issues Against Donna Leigh Crosby before the Board of  
2 Registered Nursing, in Case No. 2000-189, Respondent's license was revoked for criminal  
3 convictions related to theft, forgery, prostitution and the use and possession of controlled  
4 substances; however that revocation was stayed and respondent was placed on probation for a  
5 period of three years. That decision is now final and is incorporated by reference as if fully set  
6 forth.

7 PRAYER


8 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
9 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

10 1. Revoking the probation that was granted by the Board of Registered  
11 Nursing in Case No. 2000-189 and imposing the disciplinary order that was stayed thereby  
12 revoking Registered Nurse License No. 571898 issued to Donna Leigh Crosby ;

13 2. Revoking or suspending Registered Nurse License No. 571898, issued to  
14 Donna Leigh Crosby;

15 3. Taking such other and further action as deemed necessary and proper.

16  
17 DATED: 2/28/03

18  
19   
20 RUTH ANN TERRY, M.P.H., R.N.  
21 Executive Officer  
22 Board of Registered Nursing  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant

26 03579110-SF2002 AD1446

27 DL 01/30/03

**Exhibit C**

**Decision and Order**

**Board of Registered Nursing  
OAH Case No. 2007030742**

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement:

**DONNA LEIGH CROSBY**

Registered Nurse License No. 571898

Petitioner.


OAH No. L2007030742

**DECISION**

The attached Decision of the Board of Registered Nursing is hereby adopted by the Board as its Decision in the above-entitled matter.

This Decision shall become effective on June 25, 2007.

IT IS SO ORDERED this 25<sup>th</sup> day of May 2007.



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for Reinstatement  
of:

DONNA LEIGH CROSBY,

Registered Nurse License No. 571898

Petitioner.

OAH No. N2007030742

**DECISION**

This matter was heard before a quorum of the Board of Registered Nursing on April 12, 2007, in Berkeley, California. Board members present and participating were LaFrancine Tate, Public Member, President; Susanne Phillips, M.S.N., R.N., A.P.R.N.-B.C., F.N.P., Vice President; Carmen Morales-Board, M.S.N., R.N., N.P.; Grace Corse, R.N.; Nancy L. Beecham, R.N.C., and Andrea Dutton, Public Member. Administrative Law Judge Cheryl R. Tompkin, State of California, Office of Administrative Hearings, presided.

Char Sachson, Deputy Attorney General, represented the Office of the Attorney General.

Petitioner Donna Leigh Crosby represented herself.

This matter was submitted on April 12, 2007.

**FACTUAL FINDINGS**

1. On November 16, 1999, the Board of Registered Nursing (Board) received an application for licensure as a registered nurse from Donna Leigh Crosby (petitioner). A Statement of Issues was filed against petitioner setting forth causes of action for denial of the requested license. An administrative hearing was subsequently held on petitioner's application for licensure. In its decision following hearing the Board found that petitioner's application was subject to denial in that she had been convicted of numerous criminal offenses involving dishonesty and the offenses were substantially related to the practice of nursing. The Board also found that petitioner had engaged in dishonest acts, unlawfully obtained and possessed controlled substances, self-administered controlled substance, and

engaging in acts which if done by a licensee would be grounds for denial. However, the Board also found that petitioner had demonstrated impressive rehabilitation.

By decision effective September 10, 2000 the Board granted petitioner's application for licensure as a registered nurse. The decision directed that a registered nurse license be issued to petitioner. However, the decision further directed that said license be immediately revoked, the order of revocation stayed and petitioner placed on probation for a period of three (3) years on specific terms and conditions. Condition 15 of petitioner's probation required her to completely abstain from the possession or use of all psychotropic drugs, unless ordered by a health care professional as part of medical treatment. Effective September 14, 2000, the Board issued license number 571898 to petitioner.

2. Effective January 11, 2004, petitioner's registered nursing license was revoked by the Board following an administrative hearing in Case No. 2000-189. The bases for the revocation included possessing and injecting mood-altering drugs, such as heroin, cocaine and Vicodin, without possessing a lawful prescription, providing false information to her probation monitor, and substituting her son's urine for her own during drug testing.

3. On or about October 20, 2006, petitioner filed the pending petition for reinstatement.

4. Petitioner comes from a family of alcoholics and addicts. Two of her siblings have died from addiction. Petitioner began abusing drugs 21 years ago. Her numerous criminal convictions were the direct result of active addiction. Petitioner was the first in her family to seek treatment. She had been clean and sober for five years when she applied for and received her nursing license. Shortly after receiving the license however, she went through a "horrendous" divorce, and then moved away from her support network. She stopped taking the steps necessary to retain sobriety. She relapsed and began abusing prescription drugs, and then heroin. Following her relapse she resigned from her nursing position and began concentrating on recovery. She had been clean and sober about one year, but was still unstable as a result of her relapse, when her nursing license was revoked.

Petitioner will have five years of sobriety on September 23, 2007. She attends 12-step meetings three to four times per week. She has a sponsor and is actively working the 12-step program. She has attended a relapse prevention workshop and now has a relapse prevention team in place, which includes her significant other and her sponsor. Petitioner's team watches her on a daily basis and will intervene if needed, including accompanying her to family functions. In addition, petitioner attends the We Care nurse support group weekly and she started weekly counseling six months ago. She is also taking nursing courses to keep her nursing skills current.

5. Petitioner has worked at a variety of occupations since losing her nursing license, including cleaning houses, serving as a private nanny and working in a real estate office. Petitioner is seeking reinstatement as a registered nurse because she loves nursing

and ultimately hopes to work in the medical-surgical setting, which she finds challenging, educational and exciting.

6. Paula Ruth Norman is petitioner's friend and part of her relapse prevention team. She testified that petitioner regularly attends 12-step meetings and is actively working the 12-step program. Petitioner also supports other recovering addicts by driving them around, accepting their calls and assisting as needed.

7. Petitioner submitted five letters of reference in support of her petition from individuals who know her well and are aware of her efforts to maintain sobriety. The references generally confirm her sobriety and sincere efforts to move forward with her life. One of the letters is from Sharon Lutman, R.N., L.M.F.T., facilitator of the We Care nurse support group. Lutman writes that she believes that with monitoring and support petitioner can return safely return to nursing practice, and that We Care is willing to serve as a monitoring body for the Board.

8. The evidence presented demonstrated that petitioner has made great strides toward rehabilitation. She has demonstrated to the satisfaction of the Board that reinstatement of her license upon relevant probationary terms and conditions is warranted.

### LEGAL CONCLUSIONS

Petitioner has established that cause exists to reinstate her license as a registered nurse on a probationary basis and subject to terms and conditions. (Bus. & Prof. Code, § 2760; Gov. Code, § 11522.)

### ORDER

The petition of Donna Leigh Crosby for reinstatement of her license is granted. A license shall be issued to petitioner. Said license shall immediately be revoked, the order of revocation stayed and petitioner placed on probation for a period of five (5) years on the following conditions:

**SEVERABILITY CLAUSE** – Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. Obey All Laws - Petitioner shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by the petitioner to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, petitioner shall submit completed fingerprint forms and fingerprint fees within 45 days of the

effective date of the decision, unless previously submitted as part of the licensure application process.

**Criminal Court Orders:** If petitioner is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program** - Petitioner shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the petitioner's compliance with the Board's Probation Program. Petitioner shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

Upon successful completion of probation, petitioner's license shall be fully restored.

3. **Report in Person** - Petitioner, during the period of probation, shall appear in person at interviews/ meetings as directed by the Board or its designated representatives.
4. **Residency, Practice, or Licensure Outside of State** - Periods of residency or practice as a registered nurse outside of California shall not apply toward a reduction of this probation time period. Petitioner's probation is tolled, if and when she resides outside of California. The petitioner must provide written notice to the Board within 15 days of any change of residency or practice outside the state, and within 30 days prior to re-establishing residency or returning to practice in this state.

Petitioner shall provide a list of all states and territories where she has ever been licensed as a *registered nurse*, *vocational nurse*, or *practical nurse*. Petitioner shall further provide information regarding the status of each license and any changes in such license status during the term of probation. Petitioner shall inform the Board if she applies for or obtains a new nursing license during the term of probation.

5. **Submit Written Reports** - Petitioner, during the period of probation, shall submit or cause to be submitted such written reports/declarations and verification of actions under penalty of perjury, as required by the Board. These reports/declarations shall contain statements relative to petitioner's compliance with all the conditions of the Board's Probation Program. Petitioner shall immediately execute all release of information forms as may be required by the Board or its representatives.

Petitioner shall provide a copy of this decision to the nursing regulatory agency in every state and territory in which he or she has a registered nurse license.

6. Function as a Registered Nurse - Petitioner, during the period of probation, shall engage in the practice of registered nursing in California for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

For purposes of compliance with the section, "engage in the practice of registered nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If petitioner has not complied with this condition during the probationary term, and the petitioner has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of the petitioner's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. Employment Approval and Reporting Requirements - Petitioner shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Petitioner shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Petitioner shall provide a copy of this decision to his or her employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, petitioner shall notify the Board in writing within seventy-two (72) hours after she obtains any nursing or other health care related employment. Petitioner shall notify the Board in writing within seventy-two (72) hours after she is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. Supervision - Petitioner shall obtain prior approval from the Board regarding petitioner's level of supervision and/or collaboration before commencing or



continuing any employment as a registered nurse, or education and training that includes patient care.

Petitioner shall practice only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board of Registered Nursing, unless alternative methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are approved.

Petitioner's level of supervision and/or collaboration may include, but is not limited to the following:

- (a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.
  - (b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours petitioner works.
  - (c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with petitioner at least twice during each shift worked.
  - (d) Home Health Care - If petitioner is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person-to-person communication with petitioner as required by the Board each work day. Petitioner shall maintain telephone or other telecommunication contact with the individual providing supervision and/or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the petitioner with or without petitioner present.
9. Employment Limitations - Petitioner shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse, or for an in-house nursing pool.

Petitioner shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Petitioner shall not work in any other registered nursing occupation where home visits are required.

Petitioner shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict petitioner from supervising

probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If petitioner has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, petitioner, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider petitioner in violation of probation.

Based on Board recommendation, each week petitioner shall be required to attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent shall be added. Petitioner shall submit dated and signed documentation confirming such attendance to the Board during the entire period of probation. Petitioner shall continue with the recovery plan recommended by the treatment/rehabilitation program or a licensed mental health examiner and/or other ongoing recovery groups.

15. **Abstain from Use of Psychotropic (Mood-Altering) Drugs** -Petitioner shall completely abstain from the possession, injection or consumption by any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by a health care professional legally authorized to do so as part of documented medical treatment. Petitioner shall have sent to the Board, in writing and within fourteen (14) days, by the prescribing health professional, a report identifying the medication, dosage, the date the medication was prescribed, the petitioner's prognosis, the date the medication will no longer be required, and the effect on the recovery plan, if appropriate.

Petitioner shall identify for the Board a single physician, nurse practitioner or physician assistant who shall be aware of petitioner's history of substance abuse and will coordinate and monitor any prescriptions for petitioner for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a quarterly basis petitioner's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances.

The Board may require the single coordinating physician, nurse practitioner, or physician assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive medicine.

16. **Submit to Tests and Samples** - Petitioner, at her expense, shall participate in a random, biological fluid testing or a drug screening program which the Board

approves. The length of time and frequency will be subject to approval by the Board. The petitioner is responsible for keeping the Board informed of petitioner's current telephone number at all times. Petitioner shall also ensure that messages may be left at the telephone number when he is not available and ensure that reports are submitted directly by the testing agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to the Board by the program and the petitioner shall be considered in violation of probation.

In addition, petitioner, at any time during the period of probation, shall fully cooperate with the Board or any of its representatives, and shall, when requested, submit to such tests and samples as the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances.

If petitioner has a positive drug screen for any substance not legally authorized and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board files a petition to revoke probation or an accusation, the Board may suspend petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

If petitioner fails to participate in a random, biological fluid testing or drug screening program within the specified time frame, the petitioner shall immediately cease practice and shall not resume practice until notified by the Board. After taking into account documented evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may suspend petitioner from practice pending the final decision on the petition to revoke probation or the accusation. This period of suspension will not apply to the reduction of this probationary time period.

17. **Mental Health Examination** - The petitioner shall, within 45 days of the effective date of this decision, have a mental health examination including psychological testing as appropriate to determine her capability to perform the duties of a registered nurse. The examination will be performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by the Board. The examining mental health practitioner will submit a written report of that assessment and recommendations to the Board. All costs are the responsibility of the petitioner. Recommendations for treatment, therapy or counseling made as a result of the mental health examination will be instituted and followed by the petitioner.


If petitioner is determined to be unable to practice safely as a registered nurse, the licensed mental health care practitioner making this determination shall immediately notify the Board and petitioner by telephone, and the Board shall

request that the Attorney General's office prepare an accusation or petition to revoke probation. Petitioner shall immediately cease practice and may not resume practice until notified by the Board. During this period of suspension, petitioner shall not engage in any practice for which a license issued by the Board is required, until the Board has notified petitioner that a mental health determination permits petitioner to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If the petitioner fails to have the above assessment submitted to the Board within the 45-day requirement, petitioner shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by the petitioner to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

18. Therapy or Counseling Program - Petitioner, at her expense, shall participate in an on-going counseling program until such time as the Board releases her from this requirement and only upon the recommendation of the counselor. Written progress reports from the counselor will be required at various intervals.

DATED: May 25, 2007

  
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LaFrancine Tate, Public Member  
President  
Board of Registered Nursing  
State of California